



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This hearing was scheduled to hear the landlord's application for an Order of Possession and a Monetary Order for unpaid rent. The landlord testified that he served the tenants with notification of this hearing by registered mail. One of the four co-tenants appeared at the hearing and confirmed service of the registered mail, that all of the co-tenants were aware of this hearing and that the co-tenant in attendance at the hearing was representing all of the tenants. I proceeded to hear from both parties with respect to this matter.

At the commencement of the hearing, the parties stated that they had reached a mutual agreement.

Issues(s) to be Decided

1. Terms of the mutual agreement between the parties.
2. Issuance of an Order of Possession.
3. Issuance of a Monetary Order.
4. Recovery of the filing fee.

Background and Evidence

Upon hearing undisputed testimony of the parties, I make the following findings. The tenants are required to pay rent of \$1,410.00 on the 1st day of every month. As of today's date the tenants were in arrears in the amount of \$2,020.00 less payment of

\$400.00 received from the tenants and a \$400.00 credit for gardening work done on the rental property, leaving a balance of \$1,220.00.

The parties agree to the following payment plan and that if the tenants comply with the payment plan the tenancy shall continue. The parties further agreed that if the tenants fail to make payments as set out by the payment plan the landlord will be permitted to serve the tenants with an Order of Possession effective two days after service and end the tenancy. The payment plan is as follows:

Outstanding rent as of today's date	\$ 1,220.00
February 1, 2010 rent charge	1,410.00
February 1, 2010 payment required by tenants	(1,195.00)
February 8, 2010 payment required by tenants	(365.00)
February 24, 2010 payment required by tenants	(400.00)
March 1, 2010 rent charge	1,410.00
March 1, 2010 payment due by tenants	(1,410.00)
March 24, 2010 payment due by tenants	(400.00)
April 1, 2010 rent charge	1,410.00
April 1, 2010 payment required by tenants	(1,410.00)
April 21, 2010 payment required by tenants	<u>(370.00)</u>
Outstanding balance after April 21, 2010 payment	\$ nil

In recognition of the agreement reached between the parties, the landlord agreed to waive recovery of the filing fee paid for this application. The landlord also requested the Monetary Order be dismissed with leave to reapply and that a conditional Order of Possession be provided. The tenant acknowledged he understood these requests and agreed with them as part of their agreement.

Analysis

I accept and order that the payment plan reached between the parties be binding and enforceable. I grant the landlord's request to dismiss the monetary portion of this application with leave to reapply should the tenants fail to make payments as set out in the payment plan.

In recognition of the mutual agreement reached between the parties, I also provide the landlord with a conditional Order of Possession effective two days after service upon the tenants. For clarity, **the Order of Possession may not be served upon the tenants if the tenants comply with the terms of the payment plan recorded above. The Order of Possession may only be served if the tenants fail to meet the terms of the payment plan recorded above.** Service of the Order of Possession will require the tenants to vacate the rental property within two days of service and cause the tenancy to end on that date.

To enforce the Order of Possession the landlord must serve the tenants with the Order and may file it in The Supreme Court of British Columbia to enforce as an Order of that court.

Conclusion

This dispute has been resolved by mutual agreement of a payment plan as set out in this decision. The tenancy shall continue so long as the terms of the payment plan are met by the tenants. The landlord has been provided an Order of Possession that may only be served upon the tenants if the tenants fail to comply with the payment plan as set out in this decision. Service of the Order of Possession will require the tenants to vacate the rental property within two days of service and cause the tenancy to end on that date.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: January 28, 2010.

Dispute Resolution Officer